

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Aiyanna Milligan	Team: Squad #6	CCRB Case #: 201801283	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 09/11/2017 10:15 AM	Location of Incident: The intersection of West 36th Street and 8th Avenue	Precinct: 14	18 Mo. SOL 3/11/2019	EO SOL 3/11/2019	
Date/Time CV Reported Thu, 02/15/2018 1:53 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Thu, 02/15/2018 1:53 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Gavin Murphy	07353	924229	MTS PCT
2. SGT Anthony Mahepath	00002	930627	MTS PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Gavin Murphy	Abuse: Police Officer Gavin Murphy threatened to arrest § 87(2)(b)	
B.POM Gavin Murphy	Force: Police Officer Gavin Murphy struck § 87(2)(b) with a vehicle door.	
§ 87(2)(b)	§ 87(4-b), § 87(2)(g)	

Case Summary

On February 15, 2018, § 87(2)(b) filed this complaint with the CCRB in-person. § 87(2)(b) discontinued police service with the NYPD as of August 23, 2013 (BR 01).

On September 11, 2017, at approximately 9:45 AM, at the intersection of 8th Avenue and West 36th Street in Manhattan, PO Gavin Murphy of the 14th Precinct stopped a NYC taxi medallion being operated § 87(2)(b). PO Murphy asked § 87(2)(b) multiple times to produce photo identification. § 87(2)(b) informed PO Murphy that he was a retired officer and did not comply with PO Murphy's requests for ID. PO Murphy allegedly told § 87(2)(b) that he would call a sergeant and arrest him for impersonation a police officer (**Allegation A: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) opened the driver's door to allow himself room to turn and retrieve his TLC hack license from a holder mounted behind him. PO Murphy allegedly shut the door, pinning § 87(2)(b)'s knee and striking his left elbow (**Allegation B: Force**, § 87(2)(g)). After PO Murphy radioed for a patrol supervisor, Sgt. Anthony Mahepath of the 14th Precinct responded to the scene. § 87(2)(b) ultimately provided photo identification to Sgt. Mahepath. PO Murphy issued § 87(2)(b) two summonses for: execution of an improper right turn and failure to comply with a lawful order (BR 02). § 87(4-b), § 87(2)(g)

§ 87(2)(b) was not arrested. There is no video footage of the incident.

Findings and Recommendations

Allegation A - Abuse of Authority: Police Officer Gavin Murphy threatened to arrest § 87(2)(b)

It is undisputed that PO Murphy stopped § 87(2)(b)'s taxi due to a traffic violation, § 87(2)(b) would not provide PO Murphy with photo identification, and PO Murphy informed § 87(2)(b) that he could be arrested for impersonating a police officer. § 87(2)(b) testified that after he made a right turn onto West 36th Street, from the second lane of 8th Avenue, he was motioned to pull over by PO Murphy. PO Murphy asked § 87(2)(b) for his license, a minimum of three times, as well as his registration and insurance. § 87(2)(b) countered the requests by asking what traffic infraction occurred and informing PO Murphy that he was a retired NYC police officer, but did not provide photo identification. When PO Murphy asked for a retired MOS department ID card, § 87(2)(b) produced a 2017 PBA card that states "RETIRED" and his shield (BR 03). PO Murphy maintained that § 87(2)(b) should have an ID card from the NYPD as a retiree and expressed that he would call his sergeant and arrest § 87(2)(b) for impersonating a police officer. After a conversation with Sgt. Mahepath about the circumstances of his retirement, § 87(2)(b) ultimately produced his New York State driver's license (BR 04) for Sgt. Mahepath, who provided it to PO Murphy (BR 05).

PO Murphy testified that after he stopped § 87(2)(b) for a VTL violation, § 87(2)(b) only produced a police shield, which PO Murphy likened to his own with the exception of the shield number. PO Murphy asked § 87(2)(b) for photo identification five to six times, however § 87(2)(b) refused to provide one and informed PO Murphy that he was a retired MOS. After asking for an ID a few times, PO Murphy informed § 87(2)(b) that he could be arrested for impersonating a police officer. § 87(2)(b)'s narrative about his status as an officer alternated between being retired and being active. PO Murphy could not recall the specific remark he used to convey this, but noted that he relayed, in substance, that they could

proceed if § 87(2)(b) produced photo ID, otherwise he was impersonating an officer. PO Murphy requested an additional unit, at which time Sgt. Mahepath responded to the scene. § 87(2)(b) ultimately provided his license to Sgt. Mahepath, who in turn provided it to PO Murphy. During his interview, PO Murphy noted that all MOS are supposed to hand in their shield upon retirement and typically receive an ID that says “Retired.” § 87(2)(b) never produced such an ID (BR 06).

Sgt. Mahepath testified that he was summoned to the incident location by Central after PO Murphy requested a Patrol Supervisor. Sgt. Mahepath could not recall what traffic violation led to the car stop. Once Sgt. Mahepath arrived at the scene, PO Murphy informed him that § 87(2)(b) a motorist who did not want to receive a summons and had informed PO Murphy that he was “on the job,” wanted to speak with him. PO Murphy also told Sgt. Mahepath that he was contemplating arresting § 87(2)(b) for impersonating a police officer. Sgt. Mahepath approached § 87(2)(b) s vehicle, at which time § 87(2)(b) informed Sgt. Mahepath that he was a former NYPD officer and wanted courtesy. Sgt. Mahepath explained that PO Murphy had discretion and thus he could not order him not to summons him. Although § 87(2)(b) ultimately produced a photo identification card for Sgt. Mahepath, Sgt. Mahepath could not recall whether PO Murphy had encountered difficulty obtaining identification from § 87(2)(b) during the incident (BR 07).

§ 87(2)(b) provided a scanned image to the investigation of: his 2017 and 2018 PBA cards, both of which say “Retired,” a shield with shield number “3568,” § 87(2)(b) s former shield number, a Westchester County photo ID card, and a Metro-North Police Pass valid between 2012 and 2013 (BR 03). PO Murphy and Sgt. Mahepath were shown this image during their respective interviews. They both confirmed that § 87(2)(b) showed them the shield that is depicted (BR 06 and BR 07).

A person is guilty of criminal impersonation in the first degree, which is a class E felony, when he or she pretends to be a police officer, or a federal law enforcement officer, or wears or displays without authority, any uniform, badge or other insignia or facsimile thereof, New York State Penal Law § 190.26 (BR 08). When a member of service discontinues police service, said member should deliver his/her shield and identification card to the Shield, ID and Retirement Unit and obtain a receipt, Patrol Guide Procedure 205-42 (BR 09). A member of service may make an arrest without a warrant for offenses when reasonable cause [to believe an offense was committed in his/her presence] exists, Patrol Guide Procedure 208-01 (BR 10).

§ 87(2)(g)

Allegation B - Force: Police Officer Gavin Murphy struck § 87(2)(b) with a vehicle door.

After PO Murphy went over the radio for a supervisor, § 87(2)(b) who stands 6’ tall, opened the driver’s door to allow himself room to turn and retrieve his TLC hack license from a holder mounted behind his left shoulder. PO Murphy allegedly placed both of his hands at

the top of the exterior of the driver's door and shut it, pinning § 87(2)(b)'s knee, which was wedged in between the steering wheel and the interior of the driver's door, and striking his left elbow, which was situated near the door handle. § 87(2)(b) opened the door again, to free his knee, and straightened his leg. PO Murphy slammed the door again. § 87(2)(b) later observed bruising on his left elbow, however he did not obtain medical treatment (BR 05).

In addition to his in-person testimony, § 87(2)(b) provided two notarized and typed statements to the CCRB, neither of which are dated. The first narrative, which is brief, mentions that force was used, but does not describe it (BR 11). The second narrative, which is much more detailed and includes § 87(2)(b)'s own purported findings, is consistent with § 87(2)(b)'s verbal testimony at the CCRB in noting that PO Murphy allegedly closed the door on his elbow twice (BR 12).

PO Murphy did not become aware that § 87(2)(b) opened a car door and denied closing the driver's door. PO Murphy maintained that it was never opened or touched by an officer. PO Murphy did not observe § 87(2)(b) complain of any injuries, or of the door being closed on his elbow or knee (BR 06).

Sgt. Mahepath had yet to arrive on scene. Upon arriving, Sgt. Mahepath did not observe § 87(2)(b) complain of any pain/injuries or of a door being closed on him (BR 07).

The investigation does not have video evidence and § 87(2)(b) did not document the alleged bruising using photographs (BR 05).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g), § 87(4-b)

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 15).
- PO Murphy has been a member of service for 18 years and has been a subject in four CCRB complaints and six allegations, all of which were mediated or mediation attempted (BR 16).

§ 87(2)(g)

[REDACTED]

- Sgt. Mahepath has been a member of service for 15 years and has been a subject in seven CCRB complaints and nine allegations, none of which were substantiated (BR 17). § 87(2)(b)

§ 87(2)(b)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)
- As of April 18, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR 19).

Squad No.: 6

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date
Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date